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PATENT APPLICATION

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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n re Application of:

Conf. No.: 2773

ECH CENTER 1600/2900

Appln. No.: 09/767,943

Group Art Unit: 1623

Filed: January 24, 2001

CHANDLER R. DAWSON et al

Examiner: Peselev, E.

For: TOPICAL TREATMENT OF PREVENTION OF

OCULAR INFECTIONS

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**Technology Center 2100** 

## TERMINAL DISCLAIMER

Commissioner for Patents Washington, D.C. 20231

Sir:

The undersigned, on behalf of the petitioner, INSITE VISION INC., represents that the petitioner, INSITE VISION INC. is the owner of the entire right, title and interest of U.S. Application No. 09/346,113, filed on July 2, 1999, for TOPICAL TREATMENT OR PREVENTION OF OCULAR INFECTIONS by virtue of an Assignment from all of the inventors thereof executed on September 30 and 9, 1999, recorded on October 7, 1999 at Reel 010289, Frame 0628 (now issued as U.S. Patent 6,239,113); as well as the entire right, title and interest in the above-captioned U.S. Application No. 09/767,943 by virtue of an Assignment from all of the inventors thereof executed on September 30 and 9, 1999, recorded in Parent Application No. 09/346,113 (now U.S. Patent 6,239,113) on October 7, 1999, at Reel 010289, Frame 0628.

Petitioner hereby certifies that the above-mentioned Assignment has been reviewed and to the best of petitioner's

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Terminal Disclaimer
U.S. Appln. No. 09/767,943

knowledge and belief, title is in petitioner who is seeking to take this action.

Petitioner hereby disclaims the terminal part of any patent granted on the above-captioned U.S. Application No. 09/767,943 which would extend beyond the expiration of the full statutory term as presently shortened by any terminal disclaimer of U.S. Patent 6,239,113, and hereby agrees that any patent so granted on the above-captioned U.S. Application No. 09/767,943 shall be enforceable only for and during such period that the legal title to U.S. Patent 6,239,113 shall be the same as the legal title to said patent issuing from the above-captioned U.S. Application No. 09/767,943, this agreement to run with any patent granted on the above-captioned U.S. Application No. 09/767,943 and to be binding upon the grantee, its successors or assigns.

Petitioner does not disclaim any terminal part of any above-captioned U.S. Application granted on the to the expiration date of No. 09/767,943 prior statutory term as presently shortened by any terminal disclaimer of U.S. Patent 6,239,113 in the event that U.S. Patent 6,239,113 expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321(a), has all claims cancelled by a Reexamination Certificate, or is otherwise terminated prior to the expiration of its statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

The undersigned whose signature and title appear below is empowered to act on behalf of petitioner.

Terminal Disclaimer U.S. Appln. No. 09/767,943

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18, of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: 5/10/02

Name: LYLE BOWMAN Title: VICE PRESIDENT